



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Sentry Casualty Company

MFDR Tracking Number

M4-16-1269-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

January 13, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "THIS MEDICATION DOES NOT FALL INTO ANY OF THE CATEGORIES REGARDING PREAUTHORIZATION."

Amount in Dispute: \$1987.18

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "We have done reconsiderations and have reversed the denials on these two dates of service."

Response Submitted by: Sentry Claims Service

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 14 – 31, 2015	Prescription Medication (Compounds)	\$1987.18	\$1987.18

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.500 defines terms used for pharmaceutical benefits.
- 28 Texas Administrative Code §134.503 sets out the guidelines for billing and reimbursing pharmaceutical services.
- 28 Texas Administrative Code §134.530 sets out the requirements for use of the closed formulary for claims not subject to certified networks.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – Precertification/authorization/notification absent.

- W3 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is the insurance carrier's reason for denial payment supported?
2. What is the total reimbursement for the disputed service?
3. Is the requestor entitled to reimbursement?

Findings

1. The dispute involves a compound medication consisting of Mefenamic Acid, Baclofen, Flurbiprofen, and Meloxicam. The dispute also involves a compound medication consisting of Meloxicam, Flurbiprofen, Tramadol HCl, Cyclobenzaprine HCl, and Bupivacaine. The insurance carrier denied disputed services with claim adjustment reason code 197 – "Precertification/ authorization/notification absent."

28 Texas Administrative Code §134.500(3) defines inclusion in the closed formulary as:

All available Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use, but excludes:

- (A) drugs identified with a status of "N" in the current edition of the *Official Disability Guidelines Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
- (B) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates; and
- (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

28 Texas Administrative Code §134.530(b)(1) provides that preauthorization is only required for drugs that are excluded from the closed formulary. The Division finds that Mefenamic Acid, Baclofen, Flurbiprofen, Meloxicam, Tramadol, and Cyclobenzaprine are included in the closed formulary and have a status of "Y" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary* effective on the date of service.

The Division finds that because Bupivacaine HCl is an FDA approved drug, it is included in the closed formulary. 28 Texas Administrative Code §134.530(d)(2) states, "Prescription and nonprescription drugs included in the division's closed formulary that exceed or are not addressed by the division's adopted treatment guidelines may be prescribed and dispensed without preauthorization." Per 28 Texas Administrative Codes §§134.500(3) and 134.530(d)(2), although Bupivacaine HCl is not specifically addressed by the ODG, it may be prescribed and dispensed without preauthorization.

Therefore, because the disputed compounds consist only of components included in the closed formulary that do not require preauthorization, the insurance carrier's denial reason is not supported. The disputed services will be reviewed in accordance with 28 Texas Administrative Code §134.503.

2. The total reimbursement for the disputed services is established by the AWP formula pursuant to 28 Texas Administrative Code §134.503(c), which states, in relevant part:

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;

- (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
- (A) health care provider...

The requestor is seeking reimbursement for a compound of the generic drugs Mefenamic Acid powder, NDC 38779066906; Baclofen powder, NDC 38779038809; Flurbiprofen powder, NDC 38779036209; and Meloxicam (bulk) powder, NDC 38779274601. The requestor is also seeking reimbursement for a compound of the generic drugs Meloxicam (bulk) powder, NDC 38779274601; Flurbiprofen powder, NDC 38779036209; Tramadol HCl (bulk) powder, NDC 38779237409; Cyclobenzaprine HCl (bulk) powder, NDC 38779039509; and Bupivacaine HCl powder, NDC 38779052405. The disputed medication was dispensed on August 14, 2015 and August 31, 2015. The reimbursement is calculated as follows:

Date of Service	Prescription Drug	Calculation per §134.503 (c)(1)	\$134.503 (c)(2)	Lesser of \$134.503 (c)(1) & (2)	Carrier Paid	Balance Due
8/14/15	Mefenamic Acid Powder	$(123.600 \times 1.8 \times 1.25) + 4.00 = \282.10	\$146.90	\$146.90	\$0.00	\$146.90
8/14/15	Baclofen Powder	$(35.630 \times 3.0 \times 1.25) + 4.00 = \137.61	\$102.60	\$102.60	\$0.00	\$102.60
8/14/15	Flurbiprofen Powder	$(36.580 \times 6.0 \times 1.25) + 4.00 = \278.35	\$210.90	\$210.90	\$0.00	\$210.90
8/14/15	Meloxicam (Bulk) Powder	$(194.670 \times .18 \times 1.25) + 4.00 = \47.80	\$35.04	\$35.04	\$0.00	\$35.04
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8/14/15	Flurbiprofen Powder	$(36.580 \times 4.8 \times 1.25) + 4.00 = \223.48	\$168.72	\$168.72	\$0.00	\$168.72
8/14/15	Tramadol HCl (Bulk) Powder	$(36.300 \times 6.0 \times 1.25) + 4.00 = \276.25	\$168.00	\$168.00	\$0.00	\$168.00
8/14/15	Cyclobenzaprine HCl (Bulk) Powder	$(46.332 \times 1.8 \times 1.25) + 4.00 = \108.25	\$80.37	\$80.37	\$0.00	\$80.37
8/14/15	Bupivacaine HCl Powder	$(45.600 \times 1.2 \times 1.25) + 4.00 = \72.40	\$46.02	\$46.02	\$0.00	\$46.02
8/31/15	Mefenamic Acid Powder	$(123.600 \times 1.8 \times 1.25) + 4.00 = \282.10	\$146.90	\$146.90	\$0.00	\$146.90
8/31/15	Baclofen Powder	$(35.630 \times 3.0 \times 1.25) + 4.00 = \137.61	\$102.60	\$102.60	\$0.00	\$102.60
8/31/15	Flurbiprofen Powder	$(36.580 \times 6.0 \times 1.25) + 4.00 = \278.35	\$210.90	\$210.90	\$0.00	\$210.90
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3. The total reimbursement amount for the disputed services is \$1987.18. The insurance carrier stated in their position statement that they “reversed the denials on these two dates of service.” Submitted documentation, however, does not support that payment has been made on the specific services in dispute. Therefore, a reimbursement of \$1987.18 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1987.18.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$1987.18 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	February 29, 2016 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.